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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/843,536
Filing Date: April 25, 2001
Appellant(s): NEWVILLE, TODD A.

LICHAUCO, FAUSTINO (Regn.No.41, 942)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/16/2008 appealing from the Office action mailed 05/14/2008.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6526275 B1	Calvert; Brian Edward	02-2003
US 6650902 B1	Richton; Robert Ellis	11-2003

US 6657538 B1	Ritter; Rudolf	12-2003
US 5554832 A	Lumme; Jorma et al.	09-1996
US 7174173 B1	Needham; Bradford H. et al.	02-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 7, 9, 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Calvert; Brian Edward** [US 6526275 B1] in view of **Richton; Robert Ellis** [US 6650902 B1].

As per claim 1, **Calvert** teaches:

A communication system (Abstract) comprising:

A stationary transceiver (104-105; Fig.1) defining an information portal in a vicinity thereof; (Col.4; 14-33)

A local server (107; Fig.1) in communication with said transceiver, said local server being configured (Col.4; 49-65) to respond to entry of a mobile processing-system present within said information portal (Col.11; 34-51) and

Calvert doesn't teach specifically, data previously requested for said mobile processing system prior to entry of said mobile processing system into said information portal. However, **Richton** teaches in an analogous art that to provide to said mobile processing systems data previously requested (e.g. tailor the information retrieved from an external source based upon stored rules or parameters; Col.5; 26-43) for said mobile processing system prior to entry of said mobile processing system into said information portal. (e.g. The rule-based suggestion engine 600 of IPA 330 is analogous to an expert system that follows rules such as "if a user can reach a next destination within 2hours of his existing schedule, and still have time to meet a designated friend based on a friend's schedule, then transmit to the wireless mobile unit of a user, a revised flight schedule when the user is more than 5 miles from the airport"; Col.12; 44-61) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including data previously requested for said mobile processing system prior to entry of said mobile processing system into said information portal in order to developing a system which tailors beneficial information to specific individuals exists.

As per claim 7, Calvert teaches:

The communication system of claim 1, wherein said stationary transceiver is selected from the group consisting of a radio transceiver, an optical transceiver, an infrared transceiver, and an acoustic transceiver. (104-105; Fig.1, Col.4; 14-33)

As per claim 9, Calvert teaches:

The communication system of claim 1, wherein said local server and said stationary transceiver are in communication across a local area network. (104-105; Fig.1, Col.4; 14-33, Col.5; 41-50)

As per claim 11, Calvert teaches:

The communication system of claim 1, further comprising a fulfillment server in communication with said local server, said fulfillment server having access to a wide area network. (120; Fig.1, Col.9; 13-34, Col.5; 41-50)

As per claim 12, Calvert teaches:

The communication system of claim 11, wherein said local server comprises a cache for temporary accumulation of information from said fulfillment server to be relayed to said mobile processing system. (109; Fig.1, Col.5; 24-50, Col.8; 5-22)

As per claim 13, Calvert teaches:

The communication system of claim 11, wherein said wide area network comprises a global computer network. (Col.15; 15-44)

As per claim 14, Calvert teaches:

The communication system of claim 11, wherein said fulfillment server includes a user-interface for enabling a user to cause said fulfillment server to collect selected information. (120; Fig.1, Col.9; 13-34)

As per claim 15, Calvert teaches:

The communication system of claim 14, wherein said fulfillment server is configured to provide said selected information to said local server when said local server identifies, within said information portal, a mobile processing unit associated with said user. (120; Fig.1, Col.9; 13-34)

As per claim 16, Calvert teaches:

The communication system of claim 14, wherein said fulfillment server includes a user-interface for enabling a user to cause said fulfillment server to detect an occurrence of a condition. (120; Fig.1, Col.9; 5-34, *further explanation* Col.8; 5-17)

As per claims 17-18, Calvert teaches:

The communication system of claim 16, wherein said fulfillment server is configured to provide information indicative of an occurrence of said condition to said local server when said local server identifies, within said information portal, a mobile processing unit associated with said user. (Col.9; 5-34, *further clarification* Col.7; 45-61)

Claims 19- 20 are the system, method claims corresponding to system claim 1, and rejected under the same rational set forth in connection with the rejection of claim 1, above.

Claims 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Calvert & Richton** further in view of **Needham; Bradford H. et al.** [US 7174173 B1].

As per claim 8, the above combinations teach all the particulars of the claim except wherein said stationary transceiver is disposed at a location selected from the group consisting of an elevator, a building lobby, and a vehicle. However, **Needham** teaches in an analogous art, that the communication system of claim 1, wherein said stationary transceiver is disposed at a location selected from the group consisting of an elevator, a building lobby, and a vehicle (vehicle; Col.1; 63-Col.2; 5) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including wherein said stationary transceiver is disposed at a location selected from the group consisting of an elevator, a building lobby, and a vehicle in order to providing information to vehicles, based on their position.

As per claim 10, the above combinations teach all the particulars of the claim except wherein said local server and said stationary transceiver are in wireless communication across a local area network. However, **Needham** teaches in an analogous art, that the communication system of claim 1, wherein said local server and said stationary transceiver are in wireless communication across a local area network. (wireless communication; Col.2; 13-19)

Claims 2, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Calvert** & **Ritter; Rudolf** [US 6657538 B1] further in view of **Lumme; Jorma et al.** [US 5554832 A].

As per claim 2, **Calvert** teaches:

A communication system (Abstract) comprising:

A stationary transceiver (104-105; Fig.1) defining an information portal in a vicinity thereof; (Col.4; 14-33)

A local server (107; Fig.1) in communication with said transceiver, said local server being configured; (Col.4; 49-65)

Calvert doesn't teach specifically, to identity and respond to a mobile processing-system present within said information portal and to perform a function on the basis of the identity of said mobile processing-system, said function being selected from the group consisting of: permitting building access to a portion of said building. However, **Ritter** teaches in an analogous art that to identity and respond to a mobile processing-system present within said information portal and to perform a function on the basis of the identity of said mobile processing-system, said function being selected from the group consisting of: permitting building access to a portion of said building. (e.g. authentication; Col.5; 9-48) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including to identity and respond to a mobile processing-system present within said information portal and to perform a function on the basis of the identity of said mobile processing-system, said function being selected from the group consisting of: permitting building access to a portion of said building in order to provide a

method, a system and devices for determining the authenticity of a user or a group of users of a communication terminal device.

The above combination doesn't teach specifically, controlling an elevator in said building. However, **Lumme** teaches in an analogous art that controlling an elevator in said building. (e.g. controlling remotely; Col.4; 34-63) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including controlling an elevator in said building in order to provide a method of a remote controller linkage to an elevator system.

As per claim 6, the above combinations teach all the particulars of the claim except an access control unit in communication with said local server, said access control unit being controlled by said local server on the basis of the identity of said mobile processing-system. However, **Ritter** teaches in an analogous art, that the communication system of claim 2, further comprising an access control unit in communication with said local server, said access control unit being controlled by said local server on the basis of the identity of said mobile processing-system. (Col.5; 9-48)

(10) Response to Argument

Applicant's arguments filed on 07/16/2008 have been fully considered but they are not persuasive.

Section 103 rejection of claims 1, 19, and 20

In response to applicant's argument that there is no suggestion to **combine** the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Appellant argues the combination of Calvert in view of Richton, specifically stating that in Calvert's system, the user would have already entered the coverage zone "Thus, Calvert does not disclose or suggest anything about 'data previously requested for said mobile processing system prior to entry of said mobile processing system into' any 'information portal' ". (page 6 of appellant's brief. The examiner agrees with this statement. Calvert merely provides evidence that systems comprising a stationary transceiver (i.e.,BTS- Base Transceiver Sites, 104, 105) that defines an information portal within the vicinity thereof (i.e., BTS' provide a coverage area, typically a cell) whereby a user may request and obtain information from a local server (e.g., 111 or 109) in communication with BTS', is very well known in the art. The examiner has maintained the position that Richton teaches a system which tailors beneficial information to specific individuals.,

Richton specifically teaches a location-based information delivery system, based upon the location of the traveler and instruction information stored in association with information identifying the wireless mobile unit (see column 3, lines 9-28), information particularly useful to the traveler is output to the wireless mobile unit. For example, as the traveler approaches the

remote location, and gets within a certain distance the remote location, information such as airline arrival information is retrieved and sent to the wireless mobile unit of the traveler, (Please see Abstract, col.1; 61-63; col.2; 4-7). This is admitted to by appellant in their description of Richton, page 6 of appellant's brief. However, contrary to appellant's argument "airline flight arrival information was never requested *before* the entry of the motorist into the designated coverage zone, the data *was* in fact requested. When the information is retrieved is not pertinent given that appellant's claim merely calls for data "previously requested". If the user of Richton's system sets up a rule in advance of arriving at a given "threshold" destination, then, the information has in fact been requested *in advance*. Given that both Calvert and Richton both define mobile information systems that provide information to a requesting user, one skilled in the art would have been motivated to have combined the geographic location rule-based information distribution system of Richton, within a well established communications network as defined by Calvert in order to tailor information for a particular user and provide delivery based upon location, within a communications system defined by Calvert. .

Appellant's further arguments regarding the modification of Calvert's system, introducing a delay, etc., is all moot. Again, the examiner has not suggested the modification of the information request system of Calvert. The examiner has proposed the benefits of incorporating a rule-based, geographic location-based distribution of information as taught by Richton, within the information retrieving, communications system of Calvert. Clearly the combination provides a beneficial advantage to a *mobile* subscriber.

Section 103 Rejection of Claim 14

Appellant argues that Claim 14 recites the additional limitation that the fulfillment server included "a user interface for enabling a user to cause said fulfillment server to collect selected information." Furthermore, appellant argues (see brief spanning pages 8 and 9) that "The 'user' in Calvert is clearly the person who operates the wire line communication device 101. The product-provider servers 120 do not communicate with these devices 101. Instead, they communicate with the wireless system controller 107. Since the product-provider server 120 never communicates directly with a user, there would be no need to provide it with any user interface, as required by claim 14".

Calvert specifically teaches that the product provider servers 120 are "..product provider servers 120 (e.g., servers on which product provider websites or web pages reside)..". One skilled in the art would have readily recognized that the product provider "website or web pages" is in fact a user interface with the product provider. Moreover, given that the websites and or web pages are accessible via telephone or internet, one skilled in the art would have also recognized the capability of a user being able to access said sites/pages with an appropriate communications device.

Section 103 Rejection of Claim 16

Appellant argues that Claim 16 recites the additional limitation that the fulfillment server included "a user interface for enabling a user to cause said fulfillment server to detect an occurrence of a condition."

Given the breadth of the phrase "occurrence of a condition", this would merely read on the detection of a user accessing the web-site/page, as indicated above or, simply a request for information.

Section 103 Rejection of Claim 17

Appellant argues that Claim 17 recites the additional limitation that the fulfillment server be configured "to provide information indicative of an occurrence of said condition to said local server when said local server identifies, within said information portal, a mobile processing unit associated with said user."

With respect to claim 17 and appellant's arguments, as taught by Calvert, the fulfillment center receives survey information about a particular user. As defined on column 9, lines 5-34 of Calvert, communication device user or generic demographic information may be provided to the fulfillment center along with a request from a particular user. The occurrence of a condition (request for information as stated previous) and the provision of information concerning the communication device user, permits the fulfillment center to determine the "..benefit from the costs of advertising their products to the device user".

Section 103 Rejection of Claim 18

Appellant argues that Claim 18 recites the additional limitation that the fulfillment server be configured "to provide interactive services to said mobile processing unit."

The examiner refers back to the argument with respect to claim 16. Clearly it is extremely well know for web-sites and web pages to provide *interactive* services.

Section 103 Rejection of Claim 8

Appellant argues that Claim 8 recites the additional limitation that the stationary transceiver be located in either an elevator, a lobby, or a vehicle.

A routineer in the mobile communications art would have readily recognized that placement of base transceiver stations is dependent upon the need for coverage within a given area. The Needham reference provides the suggestion that base transceivers may even be located within a vehicle. Therefore, one skilled in the art of mobile communications systems would have appreciated the combined system providing base transceiver sites at any location, including areas in motion, e.g., vehicles and even elevators.

Section 103 Rejection of Claim 2

Appellant argues that Claim 2 recites the additional limitation that local server being configured "to perform a function on the basis of the identify of said mobile processing-system, said function being selected from the group consisting of: permitting building access to a portion of said building." Appellant further argues that the motivation to combine the references is

flawed and further argues the type of remote control for controlling an elevator in the Lumme reference.

In response, Calvert again provides an example of a mobile communications system and as previously stated, a routineer in the art would have appreciated the placement of base transceiver sites wherever necessary for appropriate coverage within a region. **Ritter** was cited to provide evidence of a similar mobile communications system in which the user provides specific identification information to the communications terminal for authentication. As stated in column 2, this authentication can be transmitted in a wireless manner by the mobile communications terminal "**to an external secured device which, for its part, can permit or refuse the user access to its services or buildings**". Appellant argues that the identification is not the identification of the mobile processing system as claimed. The Office's position is that a user is connected with a particular mobile communications terminal or processing system. When the user's authentication information is transmitted, the mobile communications terminal inherently also transmits its identification in combination with the authentication information of the subscriber. If only the identification of the mobile communications terminal is relied upon, there would still have to be an association somewhere for comparison against the subscriber assigned the particular terminal in order to insure secure access. Therefore, contrary to appellant's arguments spanning pages 16 and 17 of the brief, the examiner has provided evidence of a system which would suggest to one skilled in the art, wireless authentication of a user via a specific mobile communications device which would be

received by a base transceiver site within a mobile communications system, for providing access to services or a building in a secure manner. Moreover, the examiner has provided the teaching of Lumme which suggests an access control system wherein an elevator system is linked to a **general access control system in the building**, and also when **identification** is required before access into the elevator is permitted. This allows identification without gueueing up in front of a card reader during peak traffic. In fact, the need for a card reader or other specific access control device in the elevator lobby is diminished or eliminated altogether, see column 2, lines 58-67. Lumme clearly teaches a wireless *general access control* system within a building which is tied to identification and elevator control. The combination of Calvert and Ritter's wireless authentication system for transmitting wireless authentication information before providing access to a **system or a building**, would clearly provide the motivation to one skilled in the art to have combined the elevator control system of Lumme. Again, the combination would have suggested to one skilled in the art, the wireless authentication and secure access control, thus removing the need for card readers during peak travel times. The examiner maintains that a prima facia grounds of rejection has been established.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sharad Rampuria/

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